



23 October 2012

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodged online: www.aemc.gov.au

Economic Regulation of Network Service Providers – Savings and transitional arrangements consultation paper

The Energy Supply Association of Australia (esaa) welcomes the opportunity to make a submission to the Australian Energy Markets Commission (AEMC) on its consultation paper on savings and transitional arrangements.

The esaa is the peak industry body for the stationary energy sector in Australia and represents the policy positions of the Chief Executives of 36 electricity and downstream natural gas businesses. These businesses own and operate some \$120 billion in assets, employ more than 51,000 people and contribute \$16.5 billion directly to the nation's Gross Domestic Product.

We welcome the AEMC giving consideration to the implications of its proposed new rules on the upcoming regulatory determination processes. However, we are concerned with the proposed application of elements of the new rules to current regulatory periods.

It is important that at the end of a determination process, when the regulated network service provider (NSP) is evaluating whether it can operate within the AER's determination that it is clear what the financial consequences of its decisions during the period are. This includes the treatment of its actual expenditure, i.e. the power of the incentive, and the terms under which the determination may be re-opened during the period. Taken together with the WACC this represents the overall risk-reward balance that the NSP must decide is appropriate for it or not.

Similarly, during the five-year period, at the point of investment decisions, the NSP's management must be able to justify its expenditure proposals to its board based on a clear understanding of the implications of that spending. It needs to be able to explain what proportion of investment will be rolled into the RAB and when, and outline any risks to recovery of the investment.

Any change made to the treatment of expenditure during the period represents a form of regulatory retrospectivity that undermines investment certainty for the NSP. However, it is precisely this sort of change that will result from the Commission's proposals to allow the AER to introduce its ex-post efficiency test for the entire period of the current set of determinations. This test was not envisaged at the time of the

determinations, merits review processes, or at the decision point for investments already made.

Accordingly, we urge the Commission not to introduce the ex-post efficiency test to the current regulatory periods. For different reasons, we have also argued in our submission to the Draft Determination that there is no need to introduce this test for future periods.

Any questions about our submission should be addressed to Kieran Donoghue, by email to kieran.donoghue@esaa.com.au or by telephone on (03) 9205 3116.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matthew Warren', with a long horizontal flourish extending to the right.

Matthew Warren
Chief Executive Officer